

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-437 (Sub-No. 1)

KANSAS SOUTHWESTERN RAILWAY, L.L.C.—ABANDONMENT—IN SUMNER,  
HARPER, BARBER, RENO AND KINGMAN COUNTIES, KS

Decided: June 12, 2000

A decision and certificate of interim trail use (CITU) served June 10, 1999, authorized the Kansas Southwestern Railway, L.L.C. (KSW) to abandon (1) its 57.85-mile Hardtner Branch, extending from milepost 514.00 at Conway Springs to milepost 571.85 at Kiowa; KS and (2) a 50.97-mile portion of its Stafford Branch, extending from milepost 559.028 at Conway Springs to milepost 610.00 at Olcott, KS. The June 10, 1999 decision stated that, if consummation had not been effected by KSW's filing of a notice of consummation by June 10, 2000, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. Under 49 CFR 1152.29(e)(2), a railroad may, for good cause, request an extension of time to file a notice of consummation in abandonment proceedings.

In a letter dated March 24, 2000, KSW notified the Board that it had consummated abandonment of: (1) its Hardtner Branch between milepost 514.25 and milepost 571.85.; and (2) the portion of its Stafford Branch between milepost 593.31, at Kingman, KS, and milepost 610.00, at Olcott. KSW also indicated that it would subsequently notify the Board about the status of the remaining portion of the Stafford Branch between milepost 559.028 and milepost 593.31.

The CITU established a 180-day period for the City of Kingman, KS, to negotiate an interim trail use/rail banking agreement with KSW for the 3.4-mile portion of KSW's Stafford Branch between milepost 591.8 and milepost 595.2. The trail use negotiation period under the CITU expired in December 1999, but in a decision served March 24, 2000, the CITU was modified to cover only the 1.51-mile portion of the line between milepost 591.8 and milepost 593.31, with the trail use negotiating period extending until July 5, 2000.<sup>1</sup>

On May 25, 2000, KSW filed a request to extend, until December 11, 2000, the time to consummate the abandonment and to file its notice of consummation for the portion of the Stafford Branch between milepost 559.028 and milepost 591.8. KSW states that it recently agreed with the state of Kansas to relocate a portion of its rail line near Kingman and to

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<sup>1</sup> KSW was therefore free to fully abandon the 1.89-mile segment of the line between milepost 593.31 and milepost 595.2, as long as all conditions previously imposed as to that segment had been met.

rehabilitate and continue operating most of its line between milepost 559.028 and milepost 591.8. According to KSW, a short segment of the line near Kingman will become unnecessary for future operations after the relocation and rehabilitation project is completed. KSW states that, at this time, it is unclear which portion of the line would no longer be needed. KSW indicates that it does not want to risk mistakenly abandoning a segment of track that will be needed for the relocation project and future operations. Nor does it want to lose abandonment authority for the small segment that would not be needed for future operations. It requests the 6-month extension to determine which portion of the line can be abandoned without jeopardizing its agreement with the State.

KSW has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. KSW's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised on or before December 11, 2000.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary